

EXHIBIT E

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<p>258</p> <p>1 IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA 2 RICHMOND DIVISION 3 ----- 4 ePLUS, INC., : 5 : 6 Plaintiff, : 7 v. : Civil Action 8 : No. 3:09CV620 9 LAWSON SOFTWARE, INC., : 10 : January 5, 2011 11 Defendant. : 12 ----- 13 14 COMPLETE TRANSCRIPT OF JURY TRIAL 15 BEFORE THE HONORABLE ROBERT E. PAYNE 16 UNITED STATES DISTRICT JUDGE, AND A JURY 17 18 APPEARANCES: 19 Scott L. Robertson, Esq. 20 Jennifer A. Albert, Esq. 21 Michael T. Strapp, Esq. 22 David M. Young, Esq. 23 GOODWIN PROCTOR 24 901 New York Avenue, NW 25 Washington, D.C. 20001 Craig T. Merritt, Esq. CHRISTIAN & BARTON 909 E. Main Street, Suite 1200 Richmond, VA 23219-3095 Counsel for the plaintiff ePlus DIANE J. DAFFRON, RPR OFFICIAL COURT REPORTER UNITED STATES DISTRICT COURT</p>	<p>260</p> <p>1 (The proceedings in this matter commenced at 2 9:30 a.m.) 3 THE CLERK: Civil Action No. 3:09CV00620, 4 ePlus, Incorporated v. Lawson Software, Incorporated. 5 Mr. Scott L. Robertson, Mr. Craig T. Merritt, 6 Ms. Jennifer Albert, Mr. Michael T. Strapp, and 7 Mr. David Young represent the plaintiff. 8 Mr. Daniel W. McDonald, Mr. Dabney J. Carr, 9 IV, Ms. Kirstin Stoll-DeBell, and Mr. William D. 10 Schultz represent the department. 11 Are counsel ready to proceed? 12 MR. ROBERTSON: Yes, Your Honor. 13 MR. McDONALD: Yes, Your Honor. 14 THE COURT: All right. Good morning, ladies 15 and gentlemen. 16 THE JURY: Good morning. 17 THE COURT: All right, Mr. Robertson, you may 18 resume your examination of the witness. 19 MR. ROBERTSON: Thank you, Your Honor. 20 THE COURT: And I remind you, sir, you're 21 under the same oath which you took yesterday. 22 THE WITNESS: Yes, sir. 23 BY MR. ROBERTSON: (Continuing) 24 Q MR. Momyer, we spent a good deal of time yesterday 25 discussing this RIMS system which you were named</p>
<p>259</p> <p>1 APPEARANCES: (Continuing) 2 Daniel W. McDonald, Esq. 3 Kirstin L. Stoll-DeBell, Esq. 4 William D. Schultz, Esq. 5 MERCHANT & GOULD 6 3200 IDS Center 7 80 South Eighth Street 8 Minneapolis, MN 55402-2215 9 Dabney J. Carr, IV, Esq. 10 TROUTMAN SANDERS 11 Troutman Sanders Building 12 1001 Haxall Point 13 P.O. Box 1122 14 Richmond, VA 23218-1122 15 16 Counsel for the defendant Lawson Software. 17 18 19 20 21 22 23 24 25</p>	<p>261</p> <p>1 inventor along with Mr. Johnson. Do you recall that? 2 A Yes, I do. 3 Q I'd like to move on now to this electronic 4 sourcing system and method, the inventions that are 5 subject of the patents that are at issue here if we 6 could. All right? 7 A Okay. 8 Q Tab 1 in your witness notebook, I believe it's 9 Plaintiff's Exhibit No. 1, if you could go to column 10 1. 11 THE COURT: That's also in your small book 12 there if you need to. 13 Q And tab 2. Thank you. 14 So we're on column 1 now of the '683 patent, 15 Exhibit No. 1. Now, suggestion was made yesterday 16 that the Patent Office was unaware of the RIMS patent. 17 Did you disclose the RIMS patent to the Patent Office? 18 A Yes, I believe so. 19 MR. McDONALD: Objection, Your Honor. This 20 is going to the validity issue. Again, I thought we 21 were going to stick with infringement. 22 THE COURT: Isn't it? 23 MR. ROBERTSON: No, Your Honor. 24 THE COURT: Why does it have to do with 25 infringement?</p>

<p>394</p> <p>1 data link described above local computer 40 waits for</p> <p>2 a response from the host as shown in block 340.</p> <p>3 Q What if anything does that have to do with</p> <p>4 generating P.O. orders, if anything?</p> <p>5 A Well, that's the process that RIMS was using to</p> <p>6 transmit information to the host to the build the</p> <p>7 P.O.s. So all of the items that were on a requisition</p> <p>8 would have been put in a data block along with the</p> <p>9 affinity of the customer and passed up to the host</p> <p>10 computer, which would then proceed to build a purchase</p> <p>11 order.</p> <p>12 Q Was it your understanding that the RIMS system</p> <p>13 operated by having the host generate the purchase</p> <p>14 order?</p> <p>15 A Yes.</p> <p>16 Q Can you go to column 31?</p> <p>17 THE COURT: Why don't you stop a minute.</p> <p>18 While we're here, pull the thing up. You see these</p> <p>19 after the purchase order data block described in step,</p> <p>20 and then there's a number 338, and is transmitted to</p> <p>21 host computer, and then there is the number 10, and it</p> <p>22 continues, and there are numbers interspersed there.</p> <p>23 What those numbers are references back to a particular</p> <p>24 figure that are being talked about. In this instance</p> <p>25 there are references back to figure 8. And it is a</p>	<p>396</p> <p>1 cross-referencing, I think you informed us that that</p> <p>2 section goes over to actually the bottom of column 34;</p> <p>3 is that right?</p> <p>4 A Yes.</p> <p>5 Q Could the RIMS system use a cross-reference table</p> <p>6 to take a requisition item say from a Fisher product</p> <p>7 to identify a similar item from another vendor that</p> <p>8 could then requisition from that vendor?</p> <p>9 A No.</p> <p>10 MR. ROBERTSON: Thank you. I have no further</p> <p>11 questions. Actually, I'm sorry. I misspoke. One</p> <p>12 last question.</p> <p>13 Q If I can take you to the '683 patent, figure 1A.</p> <p>14 You were asked some questions about figure 1A and</p> <p>15 figure 1B, do you recall that?</p> <p>16 A Yes.</p> <p>17 Q Are these two different embodiments that were</p> <p>18 disclosed in your patent?</p> <p>19 A Yes.</p> <p>20 Q Is your invention confined to either to figure 1A?</p> <p>21 MR. McDONALD: Objection, Your Honor. This</p> <p>22 goes to his understanding of the scope of the claims.</p> <p>23 MR. ROBERTSON: He was asked about figure 1A.</p> <p>24 I'm just asking if this is an embodiment. I didn't</p> <p>25 ask him anything about a claim.</p>
<p>395</p> <p>1 way to say the data block is described in step 338 if</p> <p>2 you go back and look at the figure 5A, and it says a</p> <p>3 host computer is -- has got those lines to it and has</p> <p>4 the number 10 if you go back and look at figure 5A.</p> <p>5 So all of those numbers when you are reading them, if</p> <p>6 you want to cross-reference back to the drawings, you</p> <p>7 can do that, but if you just want to read them, you</p> <p>8 just don't read -- you just don't pay any attention to</p> <p>9 the numbers unless you're going back to check them.</p> <p>10 Is that a fair statement?</p> <p>11 MR. ROBERTSON: Yes. And thank you for that,</p> <p>12 Your Honor.</p> <p>13 THE COURT: Excuse me. Go ahead.</p> <p>14 BY MR. ROBERTSON:</p> <p>15 Q The figure 5A that's referenced here you were</p> <p>16 asked about on cross-examination, correct?</p> <p>17 A 5A?</p> <p>18 Q Yes. If you want to go to it, it's at page 11 of</p> <p>19 42 in the patent and it ends with Bates No. 904. I</p> <p>20 think it was characterized as a flow chart?</p> <p>21 A Yes, I have it.</p> <p>22 Q So that section that we were just reading from is</p> <p>23 referencing that figure; is that right?</p> <p>24 A Yes.</p> <p>25 Q Now, on to column 31. On this topic of</p>	<p>397</p> <p>1 THE COURT: Yes, you are.</p> <p>2 MR. ROBERTSON: I'm just asking if this is an</p> <p>3 embodiment of his invention.</p> <p>4 THE COURT: These two.</p> <p>5 MR. ROBERTSON: Well --</p> <p>6 THE COURT: It's two different embodiments.</p> <p>7 BY MR. ROBERTSON:</p> <p>8 Q Let me start with figure 1A. Is figure 1A one</p> <p>9 embodiment of your invention?</p> <p>10 A Yes.</p> <p>11 Q Is figure 1B another embodiment of your invention?</p> <p>12 A Yes.</p> <p>13 Q Are these merely preferred embodiments?</p> <p>14 A Yes.</p> <p>15 Q Do you have an understanding whether or not your</p> <p>16 inventions are confined to either of those</p> <p>17 embodiments. Do you have an understanding?</p> <p>18 A Yes.</p> <p>19 MR. McDONALD: Objection, Your Honor.</p> <p>20 THE COURT: Overruled.</p> <p>21 Q What's your understanding?</p> <p>22 A My understanding is there are other embodiments.</p> <p>23 MR. ROBERTSON: Thank you.</p> <p>24 THE COURT: All right. You're going to be</p> <p>25 required, Mr. Momyer, to come back here and testify</p>

<p style="text-align: right;">398</p> <p>1 potentially in another part of the case either at the</p> <p>2 request of the Lawson people or the request of</p> <p>3 Mr. Robertson. So you're --</p> <p>4 MR. McDONALD: I need to call him.</p> <p>5 THE COURT: Didn't I say at the request of</p> <p>6 the Lawson?</p> <p>7 MR. McDONALD: No, I thought you said</p> <p>8 Mr. Robertson.</p> <p>9 THE COURT: I did. Instead of using you, I</p> <p>10 used your client.</p> <p>11 MR. McDONALD: Sorry.</p> <p>12 THE COURT: It may be that either side may</p> <p>13 want you back, and you can be released from your</p> <p>14 obligation to be here upon your agreement to come back</p> <p>15 when they request you to come back. Do we have your</p> <p>16 agreement?</p> <p>17 THE WITNESS: Yes, you do.</p> <p>18 THE COURT: Reluctantly.</p> <p>19 THE WITNESS: Yes, very reluctantly.</p> <p>20 THE COURT: I don't think you're unusual in</p> <p>21 giving a reluctant agreement.</p> <p>22 THE WITNESS: I do want to leave the</p> <p>23 courtroom right now, so yes.</p> <p>24 THE COURT: Well, we wouldn't keep you in the</p> <p>25 courtroom, but we would ask you to stay here.</p>	<p style="text-align: right;">400</p> <p>1 DIRECT EXAMINATION</p> <p>2 BY MR. ROBERTSON:</p> <p>3 Q Sir, can you please introduce yourself to the</p> <p>4 jury?</p> <p>5 A My name is Robert Kinross. I'm from Ben Allen,</p> <p>6 Pennsylvania, which is a suburb of Pittsburgh.</p> <p>7 Q Let me stop you there. We'll get through this a</p> <p>8 lot quicker if we just go step-by-step?</p> <p>9 A Okay.</p> <p>10 Q And the jury has heard of you, Mr. Kinross, as one</p> <p>11 of the named inventors of these three patents</p> <p>12 involving electronic sourcing. Is that accurate to</p> <p>13 say you were one of the inventors?</p> <p>14 A Yes.</p> <p>15 Q You were working at Fisher-Scientific for a period</p> <p>16 of time; is that right?</p> <p>17 A That's correct.</p> <p>18 Q When was it that you worked at Fisher-Scientific?</p> <p>19 A I worked there for 24 years. From 1979 until</p> <p>20 2003.</p> <p>21 Q Briefly, what positions during those 24 years did</p> <p>22 you hold with Fisher-Scientific?</p> <p>23 A I had a number of positions. I was hired as a</p> <p>24 programmer analyst specializing in CICS. And I</p> <p>25 advanced to systems analyst. I also became a systems</p>
<p style="text-align: right;">399</p> <p>1 THE WITNESS: Okay. It's a nice facility,</p> <p>2 but I'd rather --</p> <p>3 THE COURT: You can go home to Pittsburgh in</p> <p>4 colder weather than we have here and come back if</p> <p>5 you're needed.</p> <p>6 You must give the gentleman reasonable notice</p> <p>7 to get him back. And, of course, you must take</p> <p>8 whatever steps are necessary to get him back here on</p> <p>9 the schedule that is required by providing him</p> <p>10 transportation. All right.</p> <p>11 THE WITNESS: Thank you.</p> <p>12 (The witness was excused from the witness</p> <p>13 stand.)</p> <p>14 THE COURT: Next witness.</p> <p>15 Under the circumstances, is anybody offering</p> <p>16 the deposition as an exhibit?</p> <p>17 MR. McDONALD: No, Your Honor.</p> <p>18 THE COURT: All right. Thank you.</p> <p>19 All right. Next witness.</p> <p>20 MR. ROBERTSON: The plaintiff would call</p> <p>21 Robert Kinross, Your Honor.</p> <p>22</p> <p>23 ROBERT KINROSS, called by the Plaintiff, first</p> <p>24 being duly sworn, testified as follows:</p> <p>25</p>	<p style="text-align: right;">401</p> <p>1 programmer, which was a function of maintaining the</p> <p>2 CICS software. And I advanced to manager of</p> <p>3 electronic catalog development.</p> <p>4 Q So you mentioned a few things there. I just want</p> <p>5 to see if we can clarify them. You said you were a</p> <p>6 program analyst in CICS. Can you explain to the jury</p> <p>7 what that is? If you can, try in the simplest terms</p> <p>8 so I can understand.</p> <p>9 A A programmer analyst is a person who takes</p> <p>10 requirements and turns them into actual computer code.</p> <p>11 And the CICS aspect of it is to know what the CICS</p> <p>12 interfaces are and implement those in the program.</p> <p>13 THE COURT: What does CICS stand for?</p> <p>14 THE WITNESS: CICS is a Customer Information</p> <p>15 Control System. It was a control program supplied by</p> <p>16 IBM to control the hardware and software of a</p> <p>17 computer.</p> <p>18 BY MR. ROBERTSON:</p> <p>19 Q Is that kind of a tool for performing those</p> <p>20 activities?</p> <p>21 A It's more of an infrastructure that provides for</p> <p>22 development. So you could term it as a tool, but I</p> <p>23 think it would be more than a tool.</p> <p>24 Q When you were at Fisher in those positions, can</p> <p>25 you tell us some of the things that you did just very</p>

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<p style="text-align: right;">446</p> <p>1 MR. ROBERTSON: Thank you. I have nothing 2 further. 3 THE COURT: Can he be excused permanently or 4 do you need him back? 5 MR. McDONALD: I need him back, Your Honor. 6 THE COURT: All right. Mr. Kinross, you may 7 be required to come back here. And rather than have 8 you stay around, if you'll agree to come back when 9 they call you, and they'll give you as much notice as 10 they can, then you can leave. 11 THE WITNESS: Okay. 12 THE COURT: Under those conditions. Is that 13 all right with you? 14 THE WITNESS: Yes, that's fine. 15 THE COURT: All right. Well, have a safe 16 trip back to Pittsburgh. 17 THE WITNESS: All right. Thank you. 18 Should I leave these documents here? 19 THE COURT: Yes, just leave them there. 20 (The witness was excused from the witness 21 stand.) 22 THE COURT: Next witness. 23 MR. ROBERTSON: Yes, Your Honor. The 24 plaintiff would call Mr. James Johnson. 25 THE COURT: Are you-all all right or do you</p>	<p style="text-align: right;">448</p> <p>1 JIM JOHNSON, 2 a witness, called by the plaintiff, having been first duly 3 sworn, testified as follows: 4 5 MR. ROBERTSON: I'm sorry, is the witness sworn? 6 THE COURT: Yes, he's been sworn. 7 8 DIRECT EXAMINATION 9 BY MR. ROBERTSON: 10 Q Sir, would you please introduce yourself to the jury. 11 A My name is Jim Johnson. 12 Q And where do you live, Mr. Johnson? 13 A Pittsburgh, PA. 14 Q And just briefly, give me your educational background. 15 A Let's see. I have an associate's degree in computer 16 science. I also have a bachelor's degree in applied science 17 from Slippery Rock University. 18 Q And have you ever taken any graduate classes? 19 A I did start a graduate study but, unfortunately, never 20 finished. 21 Q What do you currently do for a living, sir? 22 A I'm the APV of information technology for a company called 23 Utility Service Partners. 24 Q You said AVP. What does that stand for? 25 A Assistant vice president.</p>
<p style="text-align: right;">447</p> <p>1 need a recess? I didn't think to ask you all. Are 2 you okay now? 3 THE JURY: Yes. 4 THE COURT: Okay. If anybody needs anything, 5 make sure you let us know. 6 All right. Let's go. Who? 7 MR. ROBERTSON: James Johnson, Your Honor. 8 (Transcript continues on page 448.) 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">449</p> <p>Johnson - Direct 1 Q And IT, is that information technology? 2 A Yes. 3 Q And what is the business of Utilities Service Partners, 4 sir? 5 A We provide service line warranties to customers that we 6 will come out and replace or fix your utility lines if they 7 break. 8 Q And utility lines, what do you mean when you are using 9 that? Are you talking electrical lines? 10 A Actually, yes. Electrical lines, gas lines, sewer lines. 11 Most homeowners don't realize in their area that they own the 12 line from the main, which is owned by the utility, to the 13 house. 14 Q And before that company that handles these utility 15 services, you worked in the information technology department; 16 is that right? 17 A I'm sorry. 18 Q You worked in the information technology department for 19 that company? 20 A Yes. 21 Q At some point in your career, did you work with Fisher 22 Scientific? 23 A Yes. 24 Q When was that? 25 A I believe I started in 1986 and up until 1998. About 12,</p>

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<p style="text-align: right;">478</p> <p>Johnson - Redirect 478</p> <p>1 Q What does it indicate a type 07 product is?</p> <p>2 A That's what I'm having a hard time recollecting.</p> <p>3 Q It says that distributor orders from Fairmont in</p> <p>4 parentheses right after it. Do you see that?</p> <p>5 A Yes.</p> <p>6 Q Fairmont is not Fisher, is it?</p> <p>7 A No.</p> <p>8 Q So is that another vendor that's making product available?</p> <p>9 A That's another vendor that we wanted to put into the</p> <p>10 catalog, yes, and we did want to be able to process purchase</p> <p>11 orders to them.</p> <p>12 Q So for those third-party vendors such as this Fairmont</p> <p>13 type 07 product, were database or program changes necessary to</p> <p>14 RIMS to accommodate that type of third-party product?</p> <p>15 A Were database changes required, yes.</p> <p>16 Q Were they made?</p> <p>17 A Yes.</p> <p>18 MR. ROBERTSON: Thank you. That's all I have.</p> <p>19 THE COURT: Do you need him back?</p> <p>20 MR. McDONALD: Yes, Your Honor.</p> <p>21 THE COURT: Mr. Johnson, they're going to need you</p> <p>22 back for another part of the case, so there's no need for you</p> <p>23 to stay here in Richmond as much as we'd like to have you. But</p> <p>24 you'll have to come back, and you'll be excused temporarily if</p> <p>25 you agree to come back. They'll give you notice and get you</p>	<p style="text-align: right;">480</p> <p>1 ladies and gentlemen, we'll take the afternoon recess. We'll</p> <p>2 take 20 minutes. Take your notebooks with you. Please be</p> <p>3 seated while the jury is being excused.</p> <p>4</p> <p>5 (Jury out.)</p> <p>6</p> <p>7 THE COURT: All right, you can be excused, sir. Now,</p> <p>8 what are you going to do next, Mr. Robertson?</p> <p>9 MR. ROBERTSON: We have about our infringement</p> <p>10 expert, Your Honor, Dr. Weaver.</p> <p>11 THE COURT: So we're going to get started with him.</p> <p>12 MR. ROBERTSON: Yes, sir. There's a number of</p> <p>13 exhibits involved. I don't want it to appear intimidating when</p> <p>14 it's brought in. Some of them are large manuals, but he's</p> <p>15 going to be referring to select pages, but I think it does</p> <p>16 constitute eight volumes.</p> <p>17 THE COURT: You don't need to give them to me, do</p> <p>18 you?</p> <p>19 MR. ROBERTSON: I certainly hope not.</p> <p>20 THE COURT: I don't think I need them unless I have</p> <p>21 to rule on something. What I do want -- have I got all of his</p> <p>22 reports?</p> <p>23 MR. ROBERTSON: Expert reports?</p> <p>24 THE COURT: Yes.</p> <p>25 MR. ROBERTSON: I believe we have a set here.</p>
<p style="text-align: right;">479</p> <p style="text-align: center;">479</p> <p>1 down here, pay your expenses to come.</p> <p>2 THE WITNESS: Can I ask a question?</p> <p>3 THE COURT: Yes.</p> <p>4 THE WITNESS: I'm going to be out of the country at</p> <p>5 the end of the month. I hope this doesn't interrupt that.</p> <p>6 THE COURT: I hope it doesn't, too. They may be</p> <p>7 flying you back from Europe.</p> <p>8 THE WITNESS: It's the Caribbean, it's not Europe.</p> <p>9 THE COURT: I will talk to them about how to handle</p> <p>10 it in a way that will get you -- when is your departure?</p> <p>11 THE WITNESS: My wife and I are leaving the last week</p> <p>12 of January.</p> <p>13 THE COURT: What day?</p> <p>14 THE WITNESS: I think it's the Monday.</p> <p>15 THE COURT: You give them the date, and we'll talk</p> <p>16 about it.</p> <p>17 THE WITNESS: Thank you.</p> <p>18 THE COURT: We'll figure out a way to keep you from</p> <p>19 missing a vacation.</p> <p>20 THE WITNESS: I'd appreciate it.</p> <p>21 THE COURT: I don't want to be named in any civil</p> <p>22 action. All right. With that understanding that we'll work</p> <p>23 around your schedule, you'll agree to be back, do you?</p> <p>24 THE WITNESS: Yes.</p> <p>25 THE COURT: Thank you. You are excused. All right,</p>	<p style="text-align: right;">481</p> <p style="text-align: center;">481</p> <p>1 THE COURT: Okay, because if I get an objection</p> <p>2 because something is beyond the scope of the report, I need the</p> <p>3 report to deal with it.</p> <p>4 MR. ROBERTSON: I understand, Your Honor.</p> <p>5 THE COURT: I don't know that we're going to have</p> <p>6 that, but for each expert, I do need the reports. All right,</p> <p>7 we'll take a 20-minute --</p> <p>8 MR. ROBERTSON: Your Honor, may I raise one quick</p> <p>9 housekeeping issue? You may recall Dr. Weaver had medical</p> <p>10 issues and needs to stretch his back every once in a while.</p> <p>11 THE COURT: He can stand up any time he wants to.</p> <p>12 MR. ROBERTSON: All right, thank you, sir.</p> <p>13 THE COURT: I mean if we need to take a break, we</p> <p>14 will, but I hope we won't be here that long. All right, Mr.</p> <p>15 Merritt?</p> <p>16 MR. MERRITT: Yes, sir.</p> <p>17 THE COURT: Get an appointment for these two with</p> <p>18 your doctor for else we're all going to be infected.</p> <p>19 MR. MERRITT: Judge, I need one, too. They've</p> <p>20 infected me now. We'll get a group rate, too.</p> <p>21 THE COURT: If you can't get yours, I'll go get mine.</p> <p>22 Don't anybody come up this way.</p> <p>23 MR. MERRITT: You don't mind if people have a cough</p> <p>24 drop?</p> <p>25 THE COURT: I've been taking them all day. I have</p>

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<p>741</p> <p>1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE EASTERN DISTRICT OF VIRGINIA 3 RICHMOND DIVISION 4 5 ----- 6 ePLUS, INC. : Civil Action No. : 3:09CV620 7 vs. : : 8 LAWSON SOFTWARE, INC. : January 7, 2011 : 9 ----- 10 11 COMPLETE TRANSCRIPT OF THE JURY TRIAL 12 BEFORE THE HONORABLE ROBERT E. PAYNE 13 UNITED STATES DISTRICT JUDGE, AND A JURY 14 15 APPEARANCES: 16 Scott L. Robertson, Esquire 17 Michael G. Strapp, Esquire 18 Jennifer A. Albert, Esquire 19 David M. Young, Esquire 20 Goodwin Procter, LLP 21 901 New York Avenue NW 22 Suite 900 23 Washington, D.C. 20001 24 Craig T. Merritt, Esquire 25 Christian & Barton, LLP 909 East Main Street Suite 1200 Richmond, Virginia 23219-3095 Counsel for the plaintiff Peppy Peterson, RPR Official Court Reporter United States District Court</p>	<p>743</p> <p>1 PROCEEDINGS 2 3 THE CLERK: Civil action number 3:09CV620, ePlus, 4 Incorporated, versus Lawson Software, Incorporated. Mr. Scott 5 L. Robertson, Mr. Craig T. Merritt, Ms. Jennifer A. Albert, Mr. 6 Michael G. Strapp, and Mr. David Young represent the plaintiff. 7 Mr. Daniel W. McDonald, Mr. Dabney J. Carr, IV, Ms. 8 Kirstin L. Stoll-DeBell, and Mr. William D. Schultz represent 9 the defendant. Are counsel ready to proceed? 10 MR. ROBERTSON: Yes, Your Honor. 11 MR. McDONALD: Yes, sir. 12 THE COURT: Good morning. Good morning, ladies and 13 gentlemen. I was informed by the clerk that you all needed to 14 know the procedure for asking questions, and if you have 15 questions, it's all right. 16 I think the best way to do this is for you to write 17 your question out and then send it up to Mr. Neal, and he'll 18 give it to me, because there's some kind of questions that, 19 perhaps, are better -- I will tell you immediately, I can't 20 answer that or we can't get into that. 21 Others -- and I found this to be the case most of the 22 time. Other questions are very helpful to the lawyers to have, 23 because if you have -- you are the ones who have to decide the 24 case, and if you have a question, they need to know it and need 25 to work out a way to get the information to you through their</p>
<p>742</p> <p>1 APPEARANCES: (cont'g) 2 Dabney J. Carr, IV, Esquire 3 Troutman Sanders, LLP 4 Troutman Sanders Building 5 1001 Haxall Point 6 Richmond, Virginia 23219 7 Daniel W. McDonald, Esquire 8 Kirstin L. Stoll-DeBell, Esquire 9 William D. Schultz, Esquire 10 Merchant & Gould, PC 11 80 South Eighth Street 12 Suite 3200 13 Minneapolis, Minnesota 55402 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p>744</p> <p>1 questions. 2 So if you feel like you have a question, you can 3 write them out, send them to me, and I'll take them and look at 4 them. Unless it's something that I can't allow, we'll work out 5 a way to get you the information that you need. 6 You all look like you're not as drained as you were 7 when you left yesterday afternoon. I feel the same way, so 8 let's get a fresh start. Let's go ahead, Mr. Robertson. 9 MR. ROBERTSON: Thank you, Your Honor. Good morning. 10 11 ALFRED C. WEAVER, 12 a witness, called by the plaintiff, having been previously 13 duly sworn, testified as follows: 14 DIRECT EXAMINATION 15 BY MR. ROBERTSON: (resuming) 16 Q Good morning, Dr. Weaver. 17 A Good morning, Mr. Robertson. 18 Q I'd like to start out looking at Plaintiff's Exhibit 19 Number 219, if I could, sir, in binder number five. Before we 20 get there, I have a few preliminary questions. 21 Do you know whether or not Lawson provides services to its 22 customers to assist them in importing vendor catalog data into 23 its item master? 24 A Yes, I do. There was witness testimony to that from the 25 customers.</p>

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<p style="text-align: right;">921</p> <p>Weaver - Redirect 921</p> <p>1 and I'd like some clarification. Keeping in mind the Court's</p> <p>2 construction of the term catalogs/product catalog, are the</p> <p>3 Punchout catalogs also catalogs within the meaning of the claim</p> <p>4 construction in your opinion, or are they not?</p> <p>5 THE WITNESS: They are.</p> <p>6 THE COURT: So then there are two kinds of catalogs</p> <p>7 that we deal with. One is item master plus vendor item table,</p> <p>8 and the other is the Punchout catalogs.</p> <p>9 THE WITNESS: Your Honor, you are correct, and the</p> <p>10 point I was trying to make is that the Lawson item master and</p> <p>11 vendor item table, which are collectively the database, you</p> <p>12 could -- it contains item data from many external catalogs.</p> <p>13 Q We were referring to that internal catalog that you</p> <p>14 indicated is the item master table and the vendor table with</p> <p>15 data?</p> <p>16 A Right.</p> <p>17 Q As the internal catalog; is that right?</p> <p>18 A Yes.</p> <p>19 Q And this Punchout catalog, what's the shorthand we've been</p> <p>20 using to refer to those catalogs?</p> <p>21 A Those are external catalogs.</p> <p>22 Q And in particular, there was one claim -- I believe it was</p> <p>23 dependent claim two in the '516 patent -- which required</p> <p>24 catalogs to be stored separate databases; do you recall that?</p> <p>25 A I have that in front of me.</p>	<p style="text-align: right;">923</p> <p>1</p> <p>2 (Recess taken.)</p> <p>3</p> <p>4 THE COURT: Where is Dr. Weaver? You don't need to</p> <p>5 come up. They're going to need you back in the defendant's</p> <p>6 case. And, of course, you're probably going to be called in</p> <p>7 the plaintiff's rebuttal case, so you are released to go about</p> <p>8 your business upon your agreement to come back when we need</p> <p>9 you, and I assume you'll do that. Thank you for being here.</p> <p>10 THE WITNESS: Yes, sir, thank you, Your Honor.</p> <p>11 MR. McDONALD: I was going to say, this question</p> <p>12 actually might involve him helping us answer it.</p> <p>13 THE COURT: Oh, okay. Why don't you sit down there</p> <p>14 for a minute. We might need you. Thank you. That was a good</p> <p>15 catch.</p> <p>16 Did you get the question from the juror? The item</p> <p>17 master plus the item table plus the item something equals a</p> <p>18 database. I think that was the item master plus the vendor</p> <p>19 table plus the vendor item locator.</p> <p>20 THE WITNESS: Item location table.</p> <p>21 THE COURT: But I think it's probably -- if you all</p> <p>22 don't stipulate to that, maybe you better have him testify to</p> <p>23 it.</p> <p>24 MR. McDONALD: It might be in the transcript where we</p> <p>25 could read it back if we have a transcript --</p>
<p style="text-align: right;">922</p> <p>Weaver - Redirect 922</p> <p>1 Q So in that claim, what did you find constituting a</p> <p>2 separate database?</p> <p>3 A Those were the separate databases of the external Punchout</p> <p>4 sites.</p> <p>5 Q There was some questions about keyword search. If I</p> <p>6 search for a keyword, and it generates a matching item -- will</p> <p>7 it generate a matching item for any vendor who is offering</p> <p>8 items that match that keyword?</p> <p>9 A Yes.</p> <p>10 Q So if I use a keyword laptop, and the Lawson accused</p> <p>11 system has ten different catalogs, Dell, Hewlett Packard, IBM,</p> <p>12 Sony, that are all selling laptops, what will happen when I hit</p> <p>13 the enter button on that search?</p> <p>14 A The search engine will find all of the items containing</p> <p>15 that keyword, display multiple items from multiple vendors.</p> <p>16 Q So have I searched the catalogs that have any of those</p> <p>17 items that match my keyword?</p> <p>18 A The ones that match the keywords, yes.</p> <p>19 Q Could claim two also be satisfied by a system having</p> <p>20 internal database plus an external Punchout database?</p> <p>21 A Sure.</p> <p>22 THE COURT: Is that it?</p> <p>23 MR. ROBERTSON: That's it, Your Honor. Thank you.</p> <p>24 THE COURT: Ladies and gentlemen, we're going to take</p> <p>25 about a 15-minute recess.</p>	<p style="text-align: right;">924</p> <p>1 THE COURT: I think we had a different court</p> <p>2 reporter. We'll just -- come on back to the stand for a</p> <p>3 minute, and get the jury, please. Thank you very much.</p> <p>4</p> <p>5 (Jury in.)</p> <p>6</p> <p>7 THE COURT: I'm going to mark this as Court</p> <p>8 Exhibit 1.</p> <p>9 MS. STOLL-DeBELL: Your Honor, I was going to step</p> <p>10 out and tell Mr. Lohkamp he can leave.</p> <p>11 THE COURT: Mr. Who?</p> <p>12 MS. STOLL-DeBELL: One of our witnesses.</p> <p>13 MR. McDONALD: She's just going to step out of the</p> <p>14 courtroom for a moment.</p> <p>15 THE COURT: Oh, sure.</p> <p>16 MR. McDONALD: I could have said that much better.</p> <p>17 THE COURT: I just had a little trouble hearing.</p> <p>18 You'll I understand that when you get older.</p> <p>19 All right, ladies and gentlemen, who is going to ask</p> <p>20 this question to get it straight? Mr. Robertson, do you want</p> <p>21 to go ahead?</p> <p>22 MR. ROBERTSON: Sure. Dr. Weaver, there's been a</p> <p>23 question concerning what the, I guess the catalogs of the</p> <p>24 Lawson systems are, and --</p> <p>25 THE COURT: No. The question is the database. He</p>

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<p style="text-align: right;">925</p> <p style="text-align: center;">925</p> <p>1 testified earlier about a database, and then I asked him a</p> <p>2 question, and the question is, the item master plus the item</p> <p>3 table plus the item question mark equals a database, and that</p> <p>4 really wasn't what he said, but it was close.</p> <p>5 Will you recite, sir, what you said was the database</p> <p>6 in response to the question we were talking about earlier?</p> <p>7 THE WITNESS: Yes, Your Honor. The database is the</p> <p>8 item master, the vendor table, and the item location table.</p> <p>9 THE COURT: Item location table is the other question</p> <p>10 mark. All right.</p> <p>11 MR. ROBERTSON: Can I ask you what database is that,</p> <p>12 Dr. Weaver?</p> <p>13 THE COURT: That's fine. You can ask that question.</p> <p>14 Then Mr. McDonald, since he's the one that started it all</p> <p>15 anyway, can have a shot at it, too.</p> <p>16 THE WITNESS: That's the Lawson database.</p> <p>17 MR. ROBERTSON: Thank you.</p> <p>18 THE COURT: Mr. McDonald, do you want to ask him</p> <p>19 anything?</p> <p>20 MR. McDONALD: Nothing else, Your Honor.</p> <p>21 THE COURT: All right, Dr. Weaver, you're excused</p> <p>22 subject to the recall we talked about a little while ago.</p> <p>23 THE WITNESS: Thank you, Your Honor. Thanks to the</p> <p>24 jury.</p> <p>25 THE COURT: All right, your next witness, please,</p>	<p style="text-align: right;">927</p> <p style="text-align: center;">927</p> <p>1 THE COURT: Okay. All right, is your screen all</p> <p>2 right? All right, you don't need it dark. All right, thank</p> <p>3 you.</p> <p>4</p> <p>5 (Videotaped deposition of Jeffrey P. Frank played.)</p> <p>6 (Playback interrupted.)</p> <p>7</p> <p>8 MR. McDONALD: We thought this was going to be the</p> <p>9 stipulated version of the video. It does not appear to be the</p> <p>10 one we had worked out.</p> <p>11 THE COURT: You mean -- is it up to here?</p> <p>12 MR. McDONALD: I think up to just a couple minutes</p> <p>13 ago it was, yes. It looked familiar. If we can take it off</p> <p>14 the screen for a moment, please.</p> <p>15 THE COURT: Beginning with where?</p> <p>16 MR. McDONALD: I think actually number 22 at page</p> <p>17 ten, somewhere around there.</p> <p>18 THE COURT: About the initial licensing component?</p> <p>19 Is it fair to say that for products such as this, Lawson</p> <p>20 generates revenues for all four of those categories, is that</p> <p>21 what you're talking about?</p> <p>22 MR. McDONALD: Yes. Actually, number 22 -- back it</p> <p>23 up a little bit, but that's close enough.</p> <p>24 THE COURT: I don't have -- yes, 22 --</p> <p>25 MR. McDONALD: There's an entry number 22nd that</p>
<p style="text-align: right;">926</p> <p style="text-align: center;">926</p> <p>1 sir, Mr. Robertson.</p> <p>2 MR. ROBERTSON: (No response.)</p> <p>3 THE COURT: Mr. Robertson is resting his case.</p> <p>4 MR. ROBERTSON: I'm sorry, Your Honor. No, Your</p> <p>5 Honor, we have a deposition, video deposition of Mr. Jeffrey</p> <p>6 Frank, a vice president of marketing for Lawson.</p> <p>7 THE COURT: All right. Ladies and gentlemen, a</p> <p>8 deposition is something that occurs before the trial, and in</p> <p>9 the course of the pretrial proceedings, the lawyers for each</p> <p>10 side get together, and they ask a witness certain questions.</p> <p>11 And the witness is testifying. In this instance, this witness</p> <p>12 is an officer of Lawson, and I'll give you further instructions</p> <p>13 about how you consider the testimony of officers of a</p> <p>14 corporation, but it's just as if Mr. Frank was sitting right</p> <p>15 there and testifying. You're just going to see it on</p> <p>16 television, because they are entitled to do that.</p> <p>17 MR. ROBERTSON: There would be some exhibits with Mr.</p> <p>18 Frank's testimony, and I have a copies of his transcript if the</p> <p>19 Court and law clerk would like them.</p> <p>20 THE COURT: Does the jury need exhibits?</p> <p>21 MR. ROBERTSON: They will ultimately get the exhibits</p> <p>22 in the jury room.</p> <p>23 THE COURT: I mean are they shown on the screen.</p> <p>24 MR. ROBERTSON: They will be depicted on the screen</p> <p>25 as we're going through the video.</p>	<p style="text-align: right;">928</p> <p style="text-align: center;">928</p> <p>1 begins at 88:06. That's where I would start.</p> <p>2 THE COURT: Where do you end?</p> <p>3 MR. ROBERTSON: Your Honor, could I just be heard</p> <p>4 briefly?</p> <p>5 THE COURT: First I'd like to define what we're</p> <p>6 talking about.</p> <p>7 MR. McDONALD: I think I would end it at least 11:08,</p> <p>8 Your Honor, without reading further. Actually, it may continue</p> <p>9 from there as well. It does not end at 11:08.</p> <p>10 THE COURT: Does it include all of 22, item 22?</p> <p>11 MR. McDONALD: Yes, all of item 22 --</p> <p>12 THE COURT: Over to 23?</p> <p>13 MR. McDONALD: Yes, it continues with item 23.</p> <p>14 THE COURT: Down to where?</p> <p>15 MR. McDONALD: All of 23, yes. 24, I can't tell.</p> <p>16 That's a question and answer. I can't tell the context of</p> <p>17 that. 25 would seem to include a string that is one we would</p> <p>18 dispute as well.</p> <p>19 I have to say, I honestly don't have the actual</p> <p>20 stipulated parts, but this stuff looks specifically like things</p> <p>21 I thought had actually been excluded by the Court.</p> <p>22 THE COURT: Well, that goes all the way down through</p> <p>23 25, that topic does.</p> <p>24 MR. McDONALD: I believe you are right.</p> <p>25 THE COURT: Just so I understand, your objection is</p>

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<p>1188</p> <p>1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE EASTERN DISTRICT OF VIRGINIA 3 RICHMOND DIVISION 4 5 ----- 6 ePLUS, INC. : Civil Action No. : 3:09CV620 7 vs. : : 8 LAWSON SOFTWARE, INC. : January 12, 2011 : 9 ----- 10 11 COMPLETE TRANSCRIPT OF THE JURY TRIAL 12 BEFORE THE HONORABLE ROBERT E. PAYNE 13 UNITED STATES DISTRICT JUDGE, AND A JURY 14 15 APPEARANCES: 16 Scott L. Robertson, Esquire 17 Michael G. Strapp, Esquire 18 Jennifer A. Albert, Esquire 19 David M. Young, Esquire 20 Goodwin Procter, LLP 21 901 New York Avenue NW 22 Suite 900 23 Washington, D.C. 20001 24 Craig T. Merritt, Esquire 25 Christian & Barton, LLP 909 East Main Street Suite 1200 Richmond, Virginia 23219-3095 Counsel for the plaintiff Peppy Peterson, RPR Official Court Reporter United States District Court</p>	<p>1190</p> <p>1 P R O C E E D I N G S 2 3 THE CLERK: Civil action number 3:09CV00620, ePlus, 4 Incorporated, versus Lawson Software, Incorporated. Mr. Scott 5 L. Robertson, Mr. Craig T. Merritt, Ms. Jennifer A. Albert, Mr. 6 Michael G. Strapp represent the plaintiff. 7 Mr. Daniel W. McDonald, Mr. Dabney J. Carr, IV, Ms. 8 Kirstin L. Stoll-DeBell, and Mr. William D. Schultz represent 9 the defendant. Are counsel ready to proceed? 10 MR. ROBERTSON: Plaintiff is, Your Honor. 11 MR. McDONALD: Yes, Your Honor. 12 THE COURT: All right. You said you wanted to see me 13 before the jury comes in. 14 MR. McDONALD: Yeah, there's basically three issues 15 we wanted to raise. 16 THE COURT: The court reporters always can hear 17 better if you come to the lectern. 18 MR. McDONALD: There's basically three issues that we 19 wanted to raise this morning. One is our third witness in our 20 case that we start today is Ms. Raleigh. 21 THE COURT: Third witness in what? 22 MR. McDONALD: In our case when we start presenting 23 our case today. We have Mr. Richard Lawson first, Mr. 24 Christopherson second, and then Hannah Raleigh was supposed to 25 come back and be third today.</p>
<p>1189</p> <p>1189</p> <p>1 APPEARANCES: (cont'g) 2 Dabney J. Carr, IV, Esquire 3 Troutman Sanders, LLP 4 Troutman Sanders Building 5 1001 Haxall Point 6 Richmond, Virginia 23219 7 Daniel W. McDonald, Esquire 8 Kirstin L. Stoll-DeBell, Esquire 9 William D. Schultz, Esquire 10 Merchant & Gould, PC 11 80 South Eighth Street 12 Suite 3200 13 Minneapolis, Minnesota 55402 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p>1191</p> <p>1191</p> <p>1 She was supposed to be back last night from New York, 2 and New York is getting hammered real bad by this blizzard. 3 She's trying to get another flight, but her flight is not going 4 to get her here until after the trial day is over today. So 5 we've been trying to work something out with ePlus about what 6 we would do next because we haven't disclosed any exhibits or 7 anything for the next witness. 8 THE COURT: Just call the next witness, the expert or 9 whoever you've got here. There's no magic to the order of 10 putting people on. 11 MR. McDONALD: The next witness we would have 12 actually here is Mr. Lohkamp, calling him back. 13 THE COURT: Good. 14 MR. McDONALD: That's fine. They haven't had a 15 chance to get ready for their cross-examination. 16 THE COURT: They'll be ready. They knew basically 17 what you were going to do anyway. They're not going to do it 18 on your cross-examination; they were going to do redirect, so 19 we're going to reverse things. 20 MR. McDONALD: We do have a deposition of Ms. 21 O'Loughlin on the RIMS prior art issue that we can move up in 22 the order. 23 THE COURT: Is that carefully edited to eliminate the 24 trash? 25 MR. McDONALD: That's being worked on as we speak,</p>

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<p style="text-align: right;">1296</p> <p style="text-align: center;">NIEMEYER - REDIRECT 1296</p> <p>1 about the functionality of these six different</p> <p>2 features that you were asked to investigate?</p> <p>3 A No, it was not. I was able to determine the</p> <p>4 relevant source code and review what was necessary to</p> <p>5 understand those functions.</p> <p>6 Q Was it necessary to review all of the source code</p> <p>7 relevant to the inventory control module in order to</p> <p>8 render your opinions about the functionality of the</p> <p>9 features that you investigated?</p> <p>10 A No. Again, I was able to determine which subset</p> <p>11 was necessary for review.</p> <p>12 MS. ALBERT: Mike, could we have slide 86</p> <p>13 back, please.</p> <p>14 THE COURT: Slide what?</p> <p>15 MS. ALBERT: 86.</p> <p>16 THE COURT: Is that this one?</p> <p>17 MS. ALBERT: I'm sorry.</p> <p>18 THE COURT: You didn't get to this because he</p> <p>19 hadn't seen it before except there was a different</p> <p>20 version of it with the blue stacked on top, and I</p> <p>21 sustained the objection.</p> <p>22 MS. ALBERT: Slide 85. I'm sorry. My</p> <p>23 eyesight is going. Sorry.</p> <p>24 BY MS. ALBERT:</p> <p>25 Q Now, are all of the tables illustrated in your</p>	<p style="text-align: right;">1298</p> <p style="text-align: center;">NIEMEYER - REDIRECT 1298</p> <p>1 A Yes.</p> <p>2 Q Can these user defined fields be enabled for</p> <p>3 keyword searching?</p> <p>4 A Yes, they can.</p> <p>5 MS. ALBERT: Thank you. I have nothing</p> <p>6 further.</p> <p>7 THE COURT: You need Mr. Niemeyer back in</p> <p>8 your rebuttal?</p> <p>9 MR. ROBERTSON: I don't think so, Your Honor,</p> <p>10 but I'd like to reserve on that.</p> <p>11 THE COURT: All right, Mr. Niemeyer, they may</p> <p>12 need you back later in the case. So you're excused</p> <p>13 temporarily so long as you agree to come back when</p> <p>14 they notify you that you need to come back. Do you</p> <p>15 agree to do that?</p> <p>16 THE WITNESS: Sure.</p> <p>17 THE COURT: Thank you very much. You're</p> <p>18 excused temporarily. Thank you.</p> <p>19 THE WITNESS: Thank you, Your Honor.</p> <p>20 (The witness was excused from the witness</p> <p>21 stand.)</p> <p>22 THE COURT: Next witness.</p> <p>23 MR. STRAPP: EPlus calls as its next witness</p> <p>24 Mr. Farber.</p> <p>25 THE COURT: All right.</p>
<p style="text-align: right;">1297</p> <p style="text-align: center;">NIEMEYER - REDIRECT 1297</p> <p>1 demonstrative here included within the item master</p> <p>2 database?</p> <p>3 A Yes, they are.</p> <p>4 Q Is there a field for vendor name in one of the</p> <p>5 tables within this database?</p> <p>6 A I believe the POITEMVEN table includes a field for</p> <p>7 vendor name.</p> <p>8 Q What tables of the item master database are</p> <p>9 indexed for keyword searching?</p> <p>10 A My understanding is that the ITEMMAST table, the</p> <p>11 POITEMVEN table, and the ITEMLOC table.</p> <p>12 Q You mentioned these user defined fields in the</p> <p>13 ITEMMAST table. Can you explain what these user</p> <p>14 defined fields are?</p> <p>15 A Yes. These are sort of like empty slots or empty</p> <p>16 spaces left in the table, which can be filled in with</p> <p>17 data determined by the user. So there's some extra</p> <p>18 storage space that the user can fill with data of</p> <p>19 their choosing, and those fields can be indexed for</p> <p>20 search within the Lawson system.</p> <p>21 Q So can a user put any type of data that they want</p> <p>22 into one of these user defined fields?</p> <p>23 A Yes, they could.</p> <p>24 Q Would a vendor name be a type of data that a user</p> <p>25 could put into one of these user defined fields?</p>	<p style="text-align: right;">1299</p> <p style="text-align: center;">NIEMEYER - REDIRECT 1299</p> <p>1</p> <p>2 KENNETH G. FARBER, called by the Plaintiff, first</p> <p>3 being duly sworn, testified as follows:</p> <p>4</p> <p>5 DIRECT EXAMINATION</p> <p>6 BY MR. STRAPP:</p> <p>7 Q Would you please state your name for the record?</p> <p>8 A Kenneth G. Farber.</p> <p>9 Q Please describe where you're presently employed.</p> <p>10 A I'm presently employed at ePlus, Incorporated.</p> <p>11 Q What's your position at ePlus?</p> <p>12 A I'm the president of ePlus Systems and Content</p> <p>13 Services.</p> <p>14 Q How long have you been in that position?</p> <p>15 A About 10 years now.</p> <p>16 Q Was that your first position at ePlus?</p> <p>17 A Yes, it was.</p> <p>18 Q How did you come to work at ePlus?</p> <p>19 A I worked at a company called ProcureNet that sold</p> <p>20 some of the assets of that company to ePlus. So I</p> <p>21 joined ePlus following that acquisition.</p> <p>22 Q What was the business of ProcureNet, the company</p> <p>23 you worked at before ePlus?</p> <p>24 A The component business that I worked at,</p> <p>25 ProcureNet, dealt with sourcing and catalog management</p>